

Readout: Senators Informal Session on Emergencies Act Feb 21

From: "Wozny, Alexander" <alexander.wozny@fin.gc.ca>
To: Alex Lawrence <Personal Info. [REDACTED]>, "Kropman, Alexann" <alexann.kropman@fin.gc.ca>, "Bertrand, Guillaume" <guillaume.bertrand@fin.gc.ca>, "Brown, Mary-Rose" <mary-rose.brown@fin.gc.ca>, Bud Sambasivam <Personal Info. [REDACTED]>, "Labelle, Daniel" <daniel.labelle@fin.gc.ca>, "Hurl, David" <david.hurl@fin.gc.ca>, Farees Nathoo <Personal Info. [REDACTED]>, "Haidar, Nasser" <nasser.haidar@fin.gc.ca>, "Hall, Mathew" <mathew.hall@fin.gc.ca>, Hallie Stacey-Sullivan <Personal Info. [REDACTED]>, "Wilson, Hannah" <hannah.wilson@fin.gc.ca>, "Hopper, Miles" <miles.hopper@fin.gc.ca>, "Bartsoff, Jesse" <jesse.bartsoff@fin.gc.ca>, Jessica Eritou <jessica.eritou@canada.ca>, "Arless, Joshua" <joshua.arless@fin.gc.ca>, "Laporte, Anthony" <anthony.laporte@fin.gc.ca>, Leslie Church <leslie.church@canada.ca>, Maaz Yasin <Personal Info. [REDACTED]>, "Mahoney, Nicholas" <nicholas.mahoney@fin.gc.ca>, Malcolm Mceachern <malcolm.mceachern@canada.ca>, Marco Paoli <Personal Info. [REDACTED]>, "McNeill, Cameron" <cameron.mcneill@fin.gc.ca>, "Nanda, Yash" <yash.nanda@fin.gc.ca>, "Sarault, Cédric" <cedric.sarault@fin.gc.ca>, Shannon Zimmerman <Personal Info. [REDACTED]>, "Personal [REDACTED]", Shawn Lawlor <Personal Info. [REDACTED]>, "Tatone, Gianluca" <gianluca.tatone@fin.gc.ca>, "Meredith, Tyler" <tyler.meredith@fin.gc.ca>, "Vaupshas, Adrienne" <adrienne.vaupshas@fin.gc.ca>, "Wong, Douglas" <douglas.wong@fin.gc.ca>, "Wozny, Alexander" <alexander.wozny@fin.gc.ca>
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Hi folks,

See below for a readout of the informal session that Ministers Boissonnault, Mendicino and Lametti had with Senators to take questions on the Emergencies Act.

Flags:

- Senator Tannas stated that the Senate would be debating the Emergencies Act for 3 days. If this is true, it means the Senate will be voting on the EA Thursday, February 24.
- Several questions were asked of the continuing justification for the emergency measures given the lack of ongoing blockades.
- There were also several questions on the threshold that will be used to determine when the Emergencies Act is no longer necessary.
- Sen. Tony Loffreda stated that he heard that RCMP had ordered banks to unfreeze all accounts that had been frozen due to their association with the blockades. Minister Boissonnault stated they were unable to comment on operations currently underway.

Summary:

- Min. Mendicino highlighted some of the successes that the EA has had since being invoked. Highlighted the use of tow trucks and jersey barriers, of a designated restricted area in Ottawa. He also highlighted that there is a desire to sunset the invocation as soon as possible. Law enforcement has supported these measures and we are in constant communication with them.
- Min. Lametti noted that the Emergencies Act is not the War Measures Act. All actions are subject to the charter and there are a number of thresholds that have to be met. We

declared a state of emergency after consultations with provinces and police forces. We had to show that there was an urgent situation that endangered Canadians and were beyond the scope of existing laws. The invocation of the Act launched debate of a motion in the House and will be starting your debate tomorrow. We all firmly want this to end ASAP. We're in constant communication with police authorities, and as soon as we can lift the state of emergency, we will.

- Min. Boissonnault highlighted the financial impacts of the blockades. This order expands the powers of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. Want to highlight the RCMP statement that showed that they have provided no names of donors to financial institutions, and that there is no element of retroactivity to the financial measures.

Q&A

- Sen. Paula Simons: Can you tell how many accounts you have frozen were of Canadian origin, and were you able to track where they were coming from?
 - o Min. Mendicino: We have to respect operational independence, so we can't reveal that info from a government side. We will continue to share the number of accounts and total money that has been seized. Decisions to disclose have to be taken by law enforcement while factoring in other laws, such as privacy laws. In terms of the grander question of foreign funding, everyone in government and law enforcement is committed to taking away lessons from this blockade. The rapid pace of fundraising was quite shocking, and definitely set off alarm bells.
- Sen. Julie Miville-Dechêne: Are these powers still necessary given there are no ongoing occupations. Can the emergencies act be used pre-emptively on potential threats?
 - o Min. Mendicino: There's provisions here to prevent children from joining these protests, and other tools that are still being used. For law enforcement, this is still necessary as there are risks. At the same time, we're in contact with all authorities to make sure we understand the situation.
 - o Min. Lametti: Law enforcement is pleased to have these measures in place. But when these measures are no longer necessary, but rather useful, it is time to get rid of them. There's not a set threshold in the law, but it's clear we don't want to keep these in place when they are not necessary.
- Sen. Lucie Moncion: From an outsiders perspective, it appears as though the province of Ontario could have handled this with existing powers, do you believe it was a lack of political will or poor planning that led to this? And there are also organizers who are still in jail, so how can the emergencies act help handle these people?
 - o Min. Lametti: According to the law, the incapacity of existing laws can be for a variety of reasons, including a lack of will. We saw situations in Alberta, in Manitoba, and in Ontario. We needed to take the decision. The organizers are following the legal processes laid out. Police are continuing to do their work, and the justice system has its own work to do on this.
 - o Follow-up: So is it not useful for these organizers?
 - o Min. Lametti: Well the legal system is the legal system. They're being processed as any other case would be.
 - o Follow-up: There are offences related to the Emergencies Act though.
 - o Min. Lametti: The majority of offences under the Emergencies Act will proceed under provincial prosecution and in front of courts.

- Sen. Paul Massicotte: The Ambassador Bridge and the Coutts Border Crossing issue was solved without the Emergencies Act, so why is it necessary?
 - o Min. Mendicino: Regardless of all the progress the police made, there are still pronounced risks. In Surrey, there was an effort to start another blockade with about 300-400 trucks who tried to block the Pacific Highway. There was signs that the Windsor blockade might start up. Even in Ottawa, this morning there was another attempt to restart the blockade near the war memorial.
 - o Min. Lametti: We've had a major issue with tow trucks throughout this issue. It's important to note that in Windsor, we had to use US tow trucks to clear the blockade. The day after we put these measures in place, Alberta had tow trucks to help move trucks. Same was true in Emerson.
 - o Min. Boissonnault: On the financial measures put in place, we needed to target funding of these groups to help avoid future issues.
- Sen. Robert Black: The Emergency Measures Act doesn't factor in agricultural industrial infrastructure as critical infrastructure. Why, and would the government support Senate amendments to include agricultural infrastructure as part of critical infrastructure.
 - o Min. Mendicino: Thanks for the question. Want to highlight that ending blockades is important for the agriculture industry.
 - o Min. Lametti: I believe it may already be covered in section 2, if the illegal public assembly were in that state. There is flexibility to protect this sort of infrastructure in the act.
- Sen. Scott Tannas: 3 days ago, the occupation was still going on in Ottawa. We have reserved 3 days for debate on this in the Senate. What is it specifically that you are looking for to have happened or not have happened to end these measures, and is there a chance we don't have to vote on this?
 - o Min. Mendicino: The things we are looking for when we speak with law enforcement – and there has to be a respect for operational independence – there is tangible evidence that great strides have been taken. As law enforcement becomes more confident that existing authorities can do the job and sufficient resources have been deployed to critical infrastructure hotspots, we can pull back. But we have to continue to be thoughtful. We received letters from law enforcement yesterday calling for this to stay in place.
- Sen. Diane Griffin: In the emergency regulations, there's an additional requirement for children to not be allowed in the 500 meter radius of the unlawful assembly area. Why this 500 meter requirement, and why are we putting the penalty on an adults when there are mature youth who could be charged under the youth criminal system?
 - o Min. Lametti: We wanted to protect kids and incentivize people with children to leave. The children of Ottawa were often being kept indoors. We saw that the majority of kids were there with adults and we thought this was sufficient.
- Sen. Howard Wetston: In terms of the legal threshold, how do you view the actual test to declare a public order emergency? What is the threshold to revoke the order in the House or Senate?
 - o Min. Mendicino: To sunset or revoke the declaration, the first thing is that the circumstances that we formed our position of a national emergency existing must have alleviated. We have to keep lines of communication open to understand when eh thresholds are no longer met.
 - o Min. Lametti: Some of the information we're making this decision on is in the public domain. Other information that comes from the intelligence of our police services or

intelligence services is not in the public domain but does factor into our discussion. I'm hoping we can share as much as we can through the parliamentary committee or the inquiry. Some premiers asked for help publicly, others privately. We identified gaps in provincial powers, and put forward plans to address these gaps, not supplant provincial powers. There is not an elaborated legal threshold for revocation.

- Sen. Sabi Marwah: Economic sanctions are targeting at a designated person, who decides who a designated person is, and what criteria is being used. And who decides when that person should no longer be sanctioned? Are we using the Proceeds of Crime (Money Laundering) and Terrorist Financing Act powers and if not, why?
 - o Min. Boissonnault: The Proceeds of Crime (Money Laundering) and Terrorist Financing Act did not adequately address crowdfunding. The measures here requires crowdfunding operations and cryptocurrency operations to be registered with FINTRAC. These measures are obviously focused on leadership, and the goal is to disrupt and stop the financing of these organizations. We're targeting leaders of the movement and owners and drivers who refused to leave the area.
 - o Follow-up: How will we decided when someone's account will be unfrozen?
 - o Min. Boissonnault: We're working with Banks to determine how to unfreeze accounts, Banks and RCMP will talk, and when it can be determined they are not involved in the protests, they will be unfrozen.
- Sen. ____ (missed name) : If the Emergencies Act is not passed by the Senate, does that impact those already charged under existing provision of the Emergencies Act?
 - o Min. Lametti: The Emergencies Act is proclaimed through an OIC, then the HoC and Senate get to debate and discuss it, as well as revoke it. But the act came into force immediately with the declaration. Anybody who was charged under the act during this period will still be charged.
 - o Follow-up: So this Act allows you to invoke it without consequences?
 - o Min. Lametti: Sort of. There are requirements to invoke it and a threshold that has to be met. And the declaration must be debated within 7 days.
- Sen. Dennis Patterson: You said the federal government has been doing everything they can, and why the government couldn't provide additional RCMP to the city of Ottawa last weekend.
 - o Min. Mendicino: There was no community that received more RCMP support than Ottawa. We sent 3 sets of troops. Despite reinforcements, as you will have seen, there was, for a variety of reasons, an inability to get the situation under control. In the last week or so, there were a number of developments that helped us handle the situation, and the Emergencies Act was part of it. We were able to leverage new tools such as the creation of a secure perimeter. We sent as many resources as we could under the information sent to us by the OPS, OPP and RCMP. I know jurisdiction makes people eyes glaze over, but OPS, when overwhelmed, is supposed to go to the OPP. The Ontario provincial government declared a state of emergency.
 - o Follow-up: Do you have any comments on Premier Legault's comments that this should not apply in Quebec?
 - o Min. Lametti: This is a national emergency. There were trucks in Ottawa with Quebec, Alberta license plates. If something were to happen in Quebec, the SQ and the government of Quebec would have access to these powers if they would like to use it. We have, as the federal government, an obligation to secure our national borders. If Quebec does not need these powers, great!

- Sen. Donna Dasko: Thank you for articulating the factors you are considering and will be considering as how this situation ends. Is there a chance you want to extend this beyond 30 days, and are you able to?
 - o Min. Mendicino: Yes, in theory it is possible to extend. But there is a sense of restraint.
 - o Min. Lametti: If it were necessary for Canada's security, we could extend. But in an ideal scenario we will not be there longer.
- Sen. Ratna Omidvar: Minister Mendicino, there are many Canadians asking why it has taken extraordinary measures like the Emergencies Act to get all three levels of government around the table. Can you describe what measures you took in the two weeks preceding the invocation of the act?
 - o Min. Mendicino: We were constantly engaging provincial and municipal law authorities. We saw that Alberta requested additional support even after we sent additional resources. At a certain point, we had to survey the damage that had been done to our reputation and our economy, and take the decision with regards to the Emergencies Act.
- Sen. Tony Loffreda: I've heard from banks that they've been advised to unfreeze the bank accounts of all truckers. Is that true?
 - o Min. Boissonnault: We can't speak to ongoing operations, but RCMP is working on a process to unfreeze accounts.
- Sen. Bernadette Clement: Can you talk to us about the Inquiry and what that might look like?
 - o Min. Lametti: This is being discussed by House Leaders. Before that, there is a parliamentary committee that will be struck which will be able to look backward at the threshold and if it was met. I do share with you the belief that this act should only be used exceptionally.
- Sen. Michèle Audette: In the declaration, there is no mention of racism or hate symbols. As a government, how can you re-assure me that Indigenous people will be involved in the review of this use of the law?
 - o Min. Lametti: I share your feelings. The Act was drafted up in a different time, but this is a concern for us.
- Sen. Pierre Dalphond: Can we get a legal opinion on the financial measures and if they conform to article 8 of the Charter?
 - o Min. Lametti: Obviously, as Minister of Justice and Attorney General, I provide public opinions from one time to another. I don't speak publicly of legal opinions and need to be cautious. We have, according to the law, a requirement to respect the Charter.
- Senator Marc Gold: We have to cut things off there. If you have any further questions, please don't hesitate to reach out to me and I'll endeavour to get you a response as soon as possible.

Happy Monday!

Alexander Wozny

Office of the Deputy Prime Minister and Minister of Finance
 Cabinet de la vice-première ministre et ministre des Finances
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